

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 0

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

8/13/08
(Date forms issued)

X S J Zane
(Signature of Party or their Representative)

X S J Zane
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GAYLE LEGENZA
633 Washington Place
Wayne, PA 19087

Plaintiff

v.

BETTY MOSEE
15 Chaddwyck Blvd. Ryan H
New Castle, DE 19720

Defendant

CASE NO.

E 1 0

2008 AUG 13 AM 10:39

U.S. DISTRICT COURT
DISTRICT OF DELAWARE

PLAINTIFF'S COMPLAINT

AND NOW, comes the plaintiff, Gayle Legenza, by and through her attorneys, Timothy M. Rafferty, Esquire and Thomas F. Sacchetta, Esquire, and respectfully represents as follows:

JURISDICTIONAL STATEMENT

1. This court has jurisdiction as the amount in controversy exceeds Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs, and the defendant is of diverse citizenship. Plaintiff is a citizen of the Commonwealth of Pennsylvania, and defendant is a citizen of the State of Delaware. The subject accident, out of which this claim arises, occurred in the State of Delaware.

PARTIES

2. Plaintiff, Gayle Legenza, is an adult individual residing at 633 Washington Place, Wayne, Pennsylvania 19087 and is a citizen of the Commonwealth of Pennsylvania.

3. Defendant, Betty Mosee, is an adult individual residing at 15 Chaddwyck Blvd. Ryan H, New Caste, Delaware 19720 and is a citizen of the State of Delaware.

VENUE

4. The facts and occurrences herein stated took place on or about August 15, 2006 on Churchmans Road approximately 65 feet west of the intersection of Stanton Christiana Road and Churchmans Road in Newark, Delaware, thus making the U.S. District Court for the District of Delaware the proper venue.

FACTS

5. At the aforesaid time and place, plaintiff, Gayle Legenza was operating a motor vehicle east on Churchmans Road when she slowed for traffic.

6. At the aforesaid time and place, defendant, Betty Mosee, was operating a motor vehicle east on Churchmans Road behind plaintiff.

7. At the aforesaid time and place, due to the negligence, recklessness, carelessness and intentional acts of defendant, Betty Mosee, plaintiff's vehicle was struck in the rear by defendant's vehicle, causing plaintiff to sustain severe personal injuries and other damages as more fully set forth herein.

8. The accident was caused by the negligence and recklessness of defendant and was in no way caused by plaintiff.

COUNT I - NEGLIGENCE

Plaintiff, Gayle Legenza v. Defendant, Betty Mosee

9. Plaintiff hereby incorporates all preceding paragraphs and counts by reference as though fully set forth herein at length.

10. The negligence, recklessness and carelessness of defendant, Betty Mosee, consisted of:

- (a) Operating the vehicle at an excessive rate of speed under the circumstances;
- (b) Failing to have the vehicle under proper and adequate control;
- (c) Failing to apply the brakes in time to avoid a collision;
- (d) Negligently applying the brakes;
- (e) Failing to operate the vehicle in accordance with existing traffic conditions and traffic controls;
- (f) Failing to drive at a speed and in a manner consistent with keeping the vehicle under control;
- (g) Failing to keep a reasonable look-out for other vehicles lawfully on the road;
- (h) Operating the vehicle in a manner not consistent with the road and weather conditions prevailing at the time;
- (i) Failing to have the vehicle under proper and adequate control and failing to keep the vehicle in the proper lane of travel;
- (j) Otherwise operating said vehicle in a careless, reckless and negligent manner and in a manner violating the motor vehicle code of the State of Delaware;
- (k) Operating the vehicle so as to create a dangerous situation for others; and
- (l) Failing to observe plaintiff's vehicle on the highway.

11. As a result of the aforesaid accident, plaintiff suffered severe injuries, which include, but are not limited to, C5-6 radiculopathy, neck sprain, cervicalgia, headaches, myalgia and myositis.

12. As a result of her injuries, plaintiff has undergone in the past and will in the future continue to undergo great pain and suffering.

13. As a result of her injuries, plaintiff has suffered a permanent disability and a permanent impairment of her earning power and capacity.

14. As a result of her injuries, plaintiff has suffered a permanent diminution of her ability to enjoy life and life's pleasures.

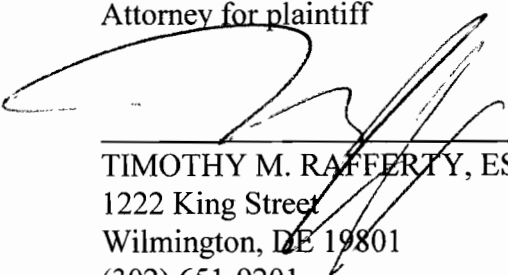
15. As a result of her injuries, plaintiff has incurred reasonable and necessary medical expenses for which she is seeking reimbursement.

16. As a result of her injuries, plaintiff will in the future incur medical expenses and income loss, and a claim is made therefor.

WHEREFORE, plaintiff, Gayle Legenza, demands judgment against the defendants, jointly and severally, in an amount in excess of Seventy-five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.



THOMAS F. SACCHETTA, ESQUIRE
Sacchetta & Baldino
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Attorney for plaintiff



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Wilmington, DE 19801
(302) 651-9201
Attorney for plaintiff

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Gayle Legenza

(b) County of Residence of First Listed Plaintiff Delaware Cty, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) Thomas F.

Sacchetta, Esq., 308 E. 2nd St., Media, PA, (610) 891-9212
& Timothy M. Rafferty, Esq., 1222 King St., Wilmington, DE 19801, (302) 651-9201

DEFENDANTS

Betty Mosee

County of Residence of First Listed Defendant New Castle
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Diversity

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS In excess of \$75,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE